

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN THE MATTER OF:	)	CASE NO. 21-61491
	)	(Jointly Administered)
	)	CHAPTER 11
SQUIRRELS RESEARCH LABS LLC	)	JUDGE RUSS KENDIG
	)	
<u>DEBTOR</u>	)	

**MOTION FOR RELIEF FROM STAY**

SCEB, LLC (“Movant”) by and through undersigned counsel, hereby moves this Court (the “Motion”), pursuant to section 362(d) of Title 11 of the United States Code (the “Bankruptcy Code”), Federal Rule of Bankruptcy Procedure 4001, and Local Rule 4001-1 for an order lifting the automatic stay imposed by section 362(a) of the Bankruptcy Code for the purpose of permitting Movant to retrieve its 174 Field Programmable Gateway Assemblies (“FPGA’s”) which were in the possession of the debtors, as bailees, at the time of the bankruptcy filing pursuant to a bailment agreement. **Pursuant to Local Bankruptcy Rule 4001-1 this motion deviates from the local form as the local forms do not adequately address the circumstances leading up to this Motion for Relief from Stay.**

**MEMORANDUM IN SUPPORT**

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. §§ 157(b)(2). The venue of this case and this motion is proper under 28 U.S.C. §§ 1408 and/or 1409.

2. In March 2021, Movant entered into a verbal agreement with Midwest Data Company, LLC (“Midwest”) for the specific purpose of hosting the FPGA’s until such time as Movant could develop or procure its own facilities to operate the units. A list of the units subject

to the bailment agreement is attached hereto as Exhibit A. Under the agreement, Movant retained all rights to the FPGAs. Midwest, as a bailee, did not have the right to sell or otherwise transfer the FPGA's and Movant could take back the units at any time.

3. On November 23, 2021, both Squirrels Research Labs, LLC and Midwest (each a "Debtor" and collectively "Debtors") filed petitions for relief under Chapter 11 of the Bankruptcy Code.

4. On January 18, 2022, the Court approved the sale of certain assets of the Debtors to Instantiation, LLC (the "Buyer") in its *Order: (I) Authorizing Sale of Certain of Debtors' Assets Free and Clear of Liens, Claims, Encumbrances and Interests Pursuant to 11 USC Sections 105 and 363; and (II) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief*, Docket No. 131.

5. Upon information and belief, the FPGAs were not listed as an acquired asset or part of the sale. Movant believes either Debtors or Buyer are in possession of the FPGAs and are unable to release the units to Movant absent the lifting of the automatic stay.

6. While Movant does not believe the FPGAs are an asset of the Bankruptcy Estate, in an abundance of caution, Movant respectfully requests an order from this Court lifting the automatic stay and authorizing Movant to retrieve the FPGAs pursuant to Bankruptcy Code § 362.

### **LEGAL BASIS**

7. Section 362(a) of the Bankruptcy Code defines the scope of the automatic stay and provides, in pertinent part: "[A] petition filed under... this title... operates as a stay... of- (1) The commencement or continuation of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under

this title, or to recover a claim against the debtor that arose before the commencement of the case under this title; 11 U.S.C. § 362(a)(1).

8. Section 362(d) of the Bankruptcy Code provides, in pertinent part: (d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying or conditioning such stay – (1) for cause.... 11 U.S.C. § 362(d)(1).

9. Movant asserts sufficient cause exists as Debtors do not have any equity or interest protected by the automatic stay in the FPGAs. The Debtors are in possession of the units only as a bailee, and they are, accordingly, not necessary for an effective reorganization. Therefore, the Movant is entitled to relief from the automatic stay pursuant to Section 362(d) of the Bankruptcy Code.

### **Conclusion**

**WHEREFORE**, Movant respectfully requests that the Court enter an Order granting it relief from the automatic stay to permit Movant to retrieve the FPGAs as set forth above and for such other and further relief as the court deems appropriate.

Respectfully submitted,

/s/ Steven J. Heimberger  
STEVEN J. HEIMBERGER (0084618)  
Roderick Linton Belfance, LLP  
50 South Main Street, 10<sup>th</sup> Floor  
Akron, Ohio 44308-1108  
Phone: (330) 434-3000  
Fax No.: (330) 434-9220  
[sheimberger@rlbllp.com](mailto:sheimberger@rlbllp.com)

### **CERTIFICATE OF SERVICE**

I certify that on January 26, 2022, a true and correct copy of the foregoing was served:

Via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

- John C. Cannizzaro John.Cannizzaro@icemiller.com, lauren.prohaska@icemiller.com
- Christopher Paul Combest christopher.combest@quarles.com
- John G. Farnan jfarnan@westonhurd.com
- Robert E. Goff rgoff@westonhurd.com, jroberts@westonhurd.com
- Jeannie Kim JeKim@sheppardmullin.com, dgatmen@sheppardmullin.com
- Marc Merklin mmerklin@brouse.com, tpalcic@brouse.com;mmiller@brouse.com
- David M. Neumann dneumann@meyersroman.com,  
jray@meyersroman.com;mnnowak@meyersroman.com
- Christopher Niekamp cniekamp@bdblaw.com
- Paul J. Schumacher pschumacher@dmclaw.com, tgross@dmclaw.com
- Frederic P. Schwieg fschwieg@schwieglaw.com
- Frederic P. Schwieg fschwieg@schwieglaw.com
- Bryan Sisto bsisto@fbtlaw.com
- United States Trustee (Registered address)@usdoj.gov
- Joshua Ryan Vaughan jvaughan@amer-collect.com, SAllman@AMER-COLLECT.COM;HouliECF@aol.com
- Julie K. Zurn jzurn@brouse.com, tpalcic@brouse.com
- Kate M. Bradley ust44 kate.m.bradley@usdoj.gov

And by regular U.S. mail, postage prepaid, on

Brouse McDowell, on behalf of Debtors  
388 South Main Street  
Suite 500  
Akron, OH 44311-4407

/s/ Steven J. Heimberger  
STEVEN J. HEIMBERGER (0084618)  
*Attorney for Movant*